

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**FILED**

Case No: C07-2279 EMC Case Name: Garcia v. Coleman, et al.

JAN 26 2009

EXHIBIT and WITNESS LISTRICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**DEFENSE ATTORNEY:****JUDGE**

Edward M. Chen

PLAINTIFF ATTORNEY:

Phillip Terry

William Arnone, Jr. / *Mica*
*Kantor***JURY SELECTION:** 1/16/09**REPORTER(S):****CLERK:****TRIAL DATE:** January 16-26,
2009

Sahar McVickar

Betty Lee

PLF NO.	DEF NO.	DATE/TIME OFFERED	ID	EVI. REC	DESCRIPTION	BY
		1/16/09 9:45 a			Trial began. Ct. discussed w/ counsel on pre-trial issue; Gk. 39 (objection) discussion; overruled obj.	
		9:55 a			recess, wait for jury; Roll call for jury, sworn	
		9:19			Judge addressed jury; began jury selection	
		10:25 a			break - resume in 15 minutes	
					Ct. addressed counsel re jury selection	
		10:38			Break, resume @ 10:50	
		10:51 a			Ct. resume, continue w/ jury selection	
					Counsel questioned jury; jury selected	
		11:28			break - 15 min.	
		11:35 a				
		12:00			lunch break	
		1:03 p			Ct resume, Court addressed jury w/ Preliminary Instructions	

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		1:21p			T's opening Statement	T
		1:43p			D's opening Statement	A
		2:07			A finished opening Statement	
		2:08p			T called witness <u>Roland Garcia</u> , sworn	T
2			✓	✓	T's Ex. 2; moved into evidence, admitted	
1			✓	✓	T's Ex. 1; admitted	
3			✓	✓	T's Ex. 3; admitted	
		2:31p			- 15 min break -	
		2:54p			Cont. direct of Roland Garcia	T
5			✓		Ex 5 (T's)	
6			✓	✓	Ex. 6 (T's); admitted	
17			✓	✓	Ex 17; admitted	
25			✓		Ex 25	
31			✓		Ex. 31	
26-31			✓	✓	Admit 26 - 31; objected lack of foundation; Admitted	
					T finished (7:49:21)	
		3:35p			A cross Garcia	A
1			✓		T Ex 1	

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			✓		Garcia's depo transcripts, p. 184-185, lines 4-3 (185)	
3			✓		Exh. 3	
3			✓		Depo of Garcia, p. 191, lines 10-12	
			✓		Exh 3	
	BB		✓	✓	D's Exh. BB; Admitted	
					A: P: 11:01 remain	
		4:30p			et - adjourned	
		1/21/09 (8:27a) 8:34a			Pre-trial issue discussion - Exhibit objection	
			✓		A resumed cross - Exam Roland Garcia	A
			✓		Garcia's depo p. 71 line 5,	
					p. 72, 46-15	
	E		✓	✓	Exhibit E, admitted	
			✓		Depo. p. 18, 419-25 (A: 7:41:14)	
		9:09a			TT re-directed Roland Garcia	TT
40			✓	✓	TT Exhibit 40, admitted	
3			✓		Exhibit 3	

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		9:27a			Δ re-cross Garcia	Δ
					Mr. Garcia is excused	
		9:29a			π called <u>(David Coleman)</u> Sworn	π
					Coleman's depo. p 21-22	
34			✓		Exh. 34	
			✓		Coleman's depo. p 92 (5-12)	
	R1		✓		Δ's Exh R-1 - Appl for Cert.	
	R1-7			✓	R-1 to 7 Admitted	
		10:06			- break 15 min	
		10:26			Resumed direct of Coleman	π
34					Exh. 34, p 37, line 26 - 38 (line 7)	
					Coleman depo 19 (line 24) - 20 (line 10);	
					p. 139 line 20; p. 143, line 22;	
					p. 144 (line 8); p. 61 (4-22);	
					break in Coleman's testimony	
		11:06			π called <u>(Lenny Siegel)</u> , Sworn	π
2			✓		Exh. 2	
1			✓		Exh. 1	
45			✓		Exh. 45 Affidavit	

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Edward M. Chen		Phillip Terry			William Arnone, Jr.	
JURY SELECTION: 1/16/09		REPORTER(S):			CLERK:	
TRIAL DATE: January 16-26, 2009		Sahar McVickar			Betty Lee	
PLF NO.	DEF NO	DATE/TIME OFFERED	ID	EVI. REC	DESCRIPTION	BY
		11:13 a			Δ cross Siegel	Δ
		11:14 a			Δ re-direct Siegel	Δ
					Siegel is excused	
		11:15 a			Δ recalled David Coleman	Δ
10			✓		Exh. 10	
13			✓		Exh. 13	
16			✓		Exh. 16	
			✓		Coleman's depo. (p. 187-188) - line 20-6	
	Q1		✓		As Exh. Q-1	
15			✓	✓	Exh. 15, Admitted	
	F		✓		Exh F	
	F-25		✓		Exh F-25	
	F-26-F-28		✓		Exh F-26 to F-28	
28				✓	Exh 28, admitted	
20					Exh. 20, moved to voir dire	
5			✓	✓	Exh. 5, move to admit, admitted	
		12:05			— lunch break — (1 hr)	
					Court resume	Δ
	1:10 p				Δ called <u>Kelly Garcia</u> sworn	
2			✓		Exh. 2	

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JURY SELECTION: 1/16/09 TRIAL DATE: January 16-26, 2009	REPORTER(S): Sahar McVickar	CLERK: Betty Lee

PLF NO.	DEF NO	DATE/TIME OFFERED	ID	EVI. REC	DESCRIPTION	BY
14			✓		T's Exh. 14	
52-54			✓	✓	Kelly produced 2 negatives, moved to admit as evidence - admitted as T's Exh. #52-54	
		1:53p			Δ cross Kelly Garcia	Δ
			✓		Garcia's depo - p. 65 (line 15) - 66 (line 4)	
	BB		✓	W	Def. Exh. BB = T's Exh. 3	
		2:18p			T re-directed Garcia	T
20			✓		T's Exh. 20	
		2:27p			Δ re-cross Garcia	Δ
		2:29p			- Kelly Garcia is excused -	
					20 minute break	
		2:56p			T called Donna Harris, sworn	
37			✓	✓	T's Exh. 37; admitted	
					- Ms. Harris is excused	
		3:02			T called Mike Anderson, sworn	T
					- Operation mgr of AC Label	
10			✓		T's Exh. 10	
13			✓		T's Exh. 13	
14			✓		T's Exh. 14	
33			✓	✓	T's Exh. 33; admitted	
		3:21			Δ cross Anderson	Δ

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Edward M. Chen		Phillip Terry			William Arnone, Jr.	
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TRIAL DATE: January 16-26, 2009		Sahar McVickar			Betty Lee	
PLF NO.	DEF NO	DATE/TIME OFFERED	ID	EVI. REC	DESCRIPTION	BY
		3:23p			IT re-direct	9
					- Mr. Anderson is excused -	
		3:24			IT recalled David Coleman	9
			✓		Coleman's depo p 139, lines 4-13	
24			✓		IT's Exh. 25	
			✓		Coleman's Depo. p 4, line 15-19	
	S		✓		IT's Exh. 5	
	S5		✓		IT's Exh. 5-5	
	R1		✓		IT's R-1	
34			✓		Coleman's 2nd Depo; IT Exh 34 (p. 6)	
46			✓		Exh 46, p. 10; moved for admission; A requested for retracted;	
46 (pp. 6 + 10)			✓	✓	p. 6 + 10 of 46 admitted	
36			✓		Exh 36	
		4:30p			Ct. adjourned; jury excused	
					Ct. discussed witness issue with counsel	
		4:40p			Ct. adjourned (IT: 2:59-40)	
					A: 7:06-17)	

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DEFENSE ATTORNEY:

William Arnone, Jr.

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PLF NO.	DEF NO.	DATE/TIME OFFERED	ID	EVI. REC	DESCRIPTION	BY
		1/22/09				
		(p. 2)			Ct resumed; Ct discussed jury instructions w/ counsel	
		8:34			Called jury to enter Ct.	
		8:35a			Continue exam of David Coleman	TT
	5		✓	✓	Exh. 5 - registration & assignment of trademark moved to admit. Admitted	
34			✓		Coleman Deps; Exh 34, p. 25-27 (Lm1-22)	
	S-2		✓		Registration of Trademark	
61			✓		Exh. 61, p. 62 (1-13)	
36			✓	✓	Exh. 36, moved into evidence, admitted	
46			✓		Exh. 46	
20			✓	✓	Exh. 20; admitted	
41			✓	✓	Exh. 41; admitted	
44			✓		Exh. 44 - Δ objected; Δ Voir Dir	Δ
	L		✓		Exh L	
	M		✓		Exh M	
	O		✓		Exh O, moved to admit	
44			✓		Exh 44	
44		9:35	✓	✓	TT requested 44 to be admitted (jury to determine authenticity)	TT

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TRIAL DATE: January 16-26, 2009		Sahar McVickar			Betty Lee	
PLF NO.	DEF NO	DATE/TIME OFFERED	ID	EVI. REC	DESCRIPTION	BY
		9:40			TP Continued Exam Dave Coleman	T
36			✓		Ex 36	
	I		✓		Ex I	
	J		✓		Ex J	
	K		✓		Ex K	
	L		✓		Ex L	
	N		✓		Ex N	
	O		✓		Ex O	
	P		✓		Ex - P	
44			✓		Ex 44 invoice	
		10 ⁰⁴ 10a			— break 20 minutes -	
					TP: 1:49:34	
					Δ: 6:47:37	
		10 ¹⁶ 10a			Δ Cross Dave Coleman	Δ
					— Mr. Coleman is excused	
		10 ³⁰ 10a			TP called <u>Mary Coppinger</u> sworn	T
38			✓	✓	litigation paralegal of TP counsel	
			✓		Ex - 38 Comptation; admitted	
37			✓		Ex. 37	
44			✓	✓	Ex 44 Comptation; (revised) objected by Δ; admitted	

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35			/	/	Exh. 35, admitted	
36			/		Exh. 36	
		10:50 a			A cross Coppinger	A
		11:03			T re-directed Coppinger	g
					Mr. Coppinger is excused	
					T read as case in chief	
		11:05			- break - 15 minutes	
		11:06			A moved for Judge to as matter of law; Ct took matter under submission	A
		11:24			A called Dave Coleman, previously sworn	A
AA			✓	✓	Exh AA-1 to AA-9; admitted	
		12:01			- break for lunch	
		12:02			Ct. gave counsel jury instructions	
		1:06 p			Ct resumed, Ct. discussed jury instructions	
		1:09 p			A continued direct Dave Coleman	A
F			✓		Exh F	

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	LL		✓	✓	Exh LL ; admitted	
	L-13				Exh L-13	
	F		✓	✓	Exh. F ; admitted	
	F-26		✓		Exh F-26	
	L-7		✓		Exh. L-7	
	NN		✓	✓	Exh. N to be revised to NN ; approved admitted	
17		3:02 p	✓		Ct resume ; A direct Coleman It's Exh 17	A
46	(3-5)	3:19 p	✓	✓	T cross Coleman Exh. 46 ; admit 3, 4, 5	T
55			✓	✓	Exh- 55 Declaration ; admitted	
8			✓	✓	Exh. 8, admitted	
		3:53 p			A re-direct Coleman	A
		3:56 p			T re-cross	T
15			✓		Exh. 15	
32			✓	✓	Exh. 32 (same as Exh 15) ; admit	
		4:00 p			A re-direct	A
		4:01 p			-Mr. Coleman is excused -	

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		4:01p			TT rebuttal / Roland Garcia	TT
	F		✓		Δ's GK F-18	
8			✓		GK F	
	H	4:11p	✓	✓	Δ cross Garcia	Δ
	N		✓		GK H, admitted	
			✓		GK N	
		4:24			TT re-cross Coleman	T
		4:26			q rest	
		4:27			Jury dismissed	
		4:29			Δ renew Motions, Andy submission	
		4:40p			Ct. Adjourned	
					(TT = 0 = 42:12 // Δ = 3 48:55)	
		1/23/09				
		8:36			Ct. resumed; discussed Verdict form w/ counsel	
		8:52a			Jury entered; Court addressed jury instructions	
		9:12			TT's closing arguments	TT
		10:33			TT finished; counsel approved Verdict Form	

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		10:33			- break -	
		10:54			A's closing argument	A
		11:58			A finished	
		11:58			T rebuttal closing	T
		12:20			T finished	
		12:21			Judge addressed closing instructions	Ct
		12:30 p			- lunch break, jury to return to deliberation @ 1:15 p	
		1:15 p			Jury began deliberation	
		3:35 p			Ct. resumed to answer jury note #1	
		5:21 p			Jury Verdict returned - for Plaintiff \$42,000	
					- ct. adjourned -	